

Appl. No. 09/621,234
Amdt. Dated August 24, 2005
Reply to Office Action of June 30, 2005

REMARKS/ARGUMENTS

Claims 15-18 and 23 were rejected because the declaration was made by the assignee and not the patentee. The Applicants submit that the current declaration was properly made by the inventors, but includes a further declaration signed by the inventors which makes reference to the amendment of February 23, 2005.

The Office Action further references the rejection in paragraph 6 of the paper of 3/4/03. This rejection related to improper recapture of subject matter surrendered in application number 690,045, the application for the patent (5,783,083) upon which the present reissue is based. The rejection was made in reference to the words "each said header having said fibers spaced apart by a flexible support means having a thickness corresponding to a desired lateral space in between adjacent fibers, said support means extending over only each terminal portion of said fibers near their ends, so as to maintain said ends in closely spaced-apart relationship".

The language quoted above appears in issued claims 1 and 9 of U.S. Patent No. 5,783,083. Since that language appears in the issued '083 patent, that subject matter cannot be said to have been surrendered in application number 690,045. The quoted language was added to application number 690,045 by amendment dated January 8, 1998. The Applicants submit that the most relevant language in a claim amended in the application was, "said first header and said second header having opposed terminal end portions of each fiber sealingly secured therein". Accordingly, to the extent that the doctrine of recapture applies to the present case, and the Applicants submit that the doctrine of recapture does not apply at all, the only subject matter that could be alleged to have been surrendered is a claim in which the issue of the attachment of the ends of the fibers to the headers is stated as broadly as "said first header and second header having opposed terminal end portions of each fiber sealingly secured therein".

The Applicants submit that claims 15 to 18 and new claim 23 are not an improper recapture of any subject matter surrendered in application number 690,045. The claims, as they relate to the attachment of the membranes to the headers, are not as broad as any claim amended by the amendment of January 8, 1998. The claims prior to the

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amendment of January 8, 1998 stated only that opposed terminal end portions of each fiber were sealingly secured in the headers. Present claim 15 states that the solid bodies have the membranes sealingly secured therein. Claims 16 to 18 and 23 depend on claim 15 and contain the same limitation. Accordingly, the Applicants submit that claims 15 to 18 and 23 do not constitute any improper recapture.

In addition to the arguments above, the Applicants also respectfully submit that claims 15 to 18 and 23 have a different scope from any claim canceled or amended in application number 690,045 and therefore do not create an improper recapture for that reason as well.

For the reasons above, the Applicants respectfully submit that this application is in condition for allowance.

Respectfully submitted,

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